

Remarks

I. Status of Claims

Claims 1, 3-4, 8-14 and 17-22 are pending in the application. Claim 1 is the only independent claim. Claims 1 is currently amended. Claim 22 has been newly added. The Applicant respectfully believes that no new matter is added.

Claims 1, 3, 4, 8-14 and 17-21 stand rejected under 35 USC 103(a) as being allegedly unpatentable over Schmid (USP 6,080,503) (hereinafter “Schmid”).

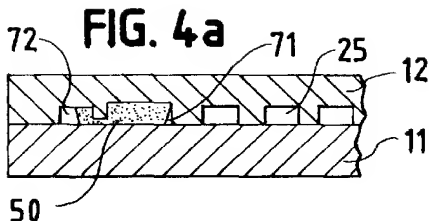
The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

II. Pending Claims

Claim 1, the only independent claim, stands rejected under 35 USC 103(a) as being allegedly unpatentable over Schmid.

The Applicant respectfully submits that claim 1 is patentable over Schmid at least because it recites, *inter alia*, “...the sealant is disposed on a portion on which a gas passage for the fuel cell is formed on at least one of the plurality components.”

The Applicant respectfully submits that Schmid discloses a fuel cell that has sealant disposed on a portion thereof on which a coolant passage is formed (*See* FIG. 4a provided herein below). Therefore, it is respectfully submitted that the present invention differs from Schmid. For instance, the invention of claim 1 requires that the sealant is disposed on a portion on which a gas passage for the fuel cell is formed on at least one of the plurality components. Also, because certain embodiments of the present invention utilize a sealant that is made of gel like substance that neither dries up nor solidifies (*See* paragraph [0035] of the Applicant’s specification)—and that is disposed on the portion on which gas passages for the fuel cell are formed—only the MEA can be taken out when breaking the fuel cell apart. In addition, only the MEA can be replaced when reassembling. Thus, utilizing configurations of certain embodiments of the present invention, it is easier to rebuild and reassemble the fuel cell.



It is also noted that the dependent claims further distinguish the present invention from Schmid. For example, claim 22 requires that “a manifold for separating each passage is formed in at least one of the plurality of components.” This is because the pressure at the manifold, and the pressure at the separator region other than the manifold (electric generation region and region periphery of the separator) vary in the direction that the manifold extends (i.e., thus, two different sealants are required).

In addition, as discussed in *KSR Int’l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), the Applicant respectfully submits that it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to modify Schmid in the manner as claimed by the Applicant. Obviousness cannot be sustained on mere conclusory statements.

Further, as is also stated in MPEP § 2144, if the applicant has demonstrated the criticality of a specific limitation (e.g., facilitating rebuilding and reassembly of a fuel cell), it would not be appropriate to rely solely on case law, as the rationale to support an obviousness rejection. In the instant case the Office Action relies solely upon *Nerwan v. Erlichman*, *In re Dailey*, and *St. Regis Paper Co. v. Bemis Co.*

Therefore, the Applicant respectfully submits that, for at least these reasons, claim 1 and its dependent claims are patentable over Schmid and the cited references.

III. Conclusion

In light of the above discussion, the Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Date: September 12, 2008

By: /Daniel G. Shanley/
Daniel G. Shanley
(Reg. No. 54,863)

KENYON & KENYON LLP
1500 K Street, N.W.
Washington, D.C. 20005
Telephone: (202) 220-4200
Facsimile: (202) 220-4201
Customer No. 23838